

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

RICHARD ALLEN SMITH

PLAINTIFF

v.

Civil No. 4:19-cv-4158

JACKIE WALTER RYEIMER, JR., et al.

DEFENDANTS

ORDER

Currently before the Court is Plaintiff Richard Allen Smith's failure to obey a Court order and failure to prosecute this case.

Plaintiff filed his Complaint *pro se* on December 17, 2019. (ECF No. 1). On December 17, 2019, this Court entered an Order directing Plaintiff to return a completed *in forma pauperis* (IFP) application and an Amended Complaint to the Court by January 10, 2020. (ECF No. 3). The Order states in part: "If Plaintiff fails to return the completed IFP application or pay the \$400 by January 10, 2020, the complaint shall be dismissed, without further notice, for failure to obey an order of the Court." *Id.* The Order further states: "This case shall be subject to dismissal if Plaintiff fails to return the Amended Complaint to the Court by the January 10, 2020, deadline." *Id.* Plaintiff failed to file a completed IFP application or pay the \$400 filing fee by the deadline. Plaintiff also failed to file an Amended Complaint by the deadline.

On February 3, 2020, this Court entered a show cause order, giving Plaintiff until February 18, 2020, to show cause why this action should not be dismissed for failure to obey an order of the Court. (ECF No. 5). Plaintiff has not responded to the show cause order. None of the Court's mailings to Plaintiff have been returned as undeliverable.

Although *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). Additionally, the Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the grounds that the plaintiff failed to prosecute or failed to comply with orders of the court. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (stating that the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on “the plaintiff’s failure to comply with *any* court order.” *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (emphasis added).

Plaintiff has failed to obey an order of the Court and has failed to prosecute this matter. Pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2), Plaintiff’s Complaint (ECF No. 1) should be and hereby is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 27th day of February, 2020.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge